

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

B.J. SMITH, BRADFORD ZINN, and
JERED ROSS,

Plaintiffs,

v.

HIGHLAND COMMUNITY COLLEGE,
DEBORAH FOX, BRYAN DORREL,
RUSSELL KARN, and BOARD OF
TRUSTEES FOR HIGHLAND
COMMUNITY COLLEGE,

Defendants.

No. 4:23-MC-218 RLW

MEMORANDUM AND ORDER

This miscellaneous matter is before the Court on Defendants’ Motion for Issuance of Out-of-State Subpoena. (ECF No. 1). The motion is denied for the reasons below.

Defendants are currently litigating a case before the United States District Court for the District of Kansas. *Smith, et al. v. Highland Community College, et al.*, No. 2:22-cv-2048-JAR-ADM (D. Kan. 2022). In furtherance of that litigation, Defendants seek a subpoena from this Court for records held by Southeast Missouri State University in Cape Girardeau, Missouri. (ECF No. 1).

Rule 45 of the Federal Rules of Civil Procedure governs the use of subpoenas in federal civil matters. Under Rule 45(a)(2), a subpoena must issue from the court where the action is pending. Fed. R. Civ. P. 45(a)(2); *see also Wright v. Nw. Mut. Life Ins. Co.*, No. 4:15-MC-00041-JAR, 2015 WL 507434, at *3 (E.D. Mo. Feb. 6, 2015). “Previous versions of Rule 45 required that a subpoena . . . issue from the district in which performance under the subpoena would take place. The rule was simplified in 2013 to require that all subpoenas issue from the court where the action is pending.” 9 James Wm. Moore et al., *Moore’s Federal Practice*, § 45.11[1] (3d ed. 2023).

Defendants' motion stems from an action pending before the United States District Court for the District of Kansas. Thus, under the current version of Rule 45, this Court cannot issue the requested subpoena.

Accordingly,

IT IS HEREBY ORDERED that Defendants' Motion for Issuance of Out-of-State Subpoena is **DENIED**. (ECF No. 1).

IT IS FURTHER ORDERED that the Clerk of the Court shall close this miscellaneous matter.

A handwritten signature in cursive script that reads "Ronnie L. White". The signature is written in black ink and is positioned above a horizontal line.

RONNIE L. WHITE
UNITED STATES DISTRICT JUDGE

Dated this 7th day of March, 2023.